

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ANTHONY JUSTICE and 5TH WHEEL
RECORDS, INC., *each individually and on
behalf of all others similarly situated,*

Plaintiffs,

v.

SUNO, INC.,

Defendant.

Civil Action No. 1:25-cv-11739-FDS

Oral Argument Requested

SUNO, INC.’S MOTION TO DISMISS

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Suno, Inc. (“Suno”) respectfully moves this Court for an order dismissing Plaintiffs’ Second Cause of Action in the above-captioned action. As grounds for this motion, Suno states as follows:

Plaintiffs’ Second Cause of Action, which alleges a violation of Plaintiffs’ right to prepare derivative works based on their sound recordings, fails as a matter of law. Plaintiffs have not alleged any facts regarding particular outputs created through Suno that are “substantially similar” to the sound recordings they have asserted. Because Plaintiffs have not identified any substantially similar derivative works, their Second Cause of Action must be dismissed pursuant to Rule 12(b)(6). Moreover, even if Plaintiffs had identified a “soundalike” version of one of their asserted works, that still would not state a claim for copyright infringement, as the only way a new recording can infringe the rights in a pre-existing one is if it borrows the actual sounds of the original. *See* 17 U.S.C. § 114(b). Plaintiffs thus have not and cannot sustain a claim for violation of 17 U.S.C. § 106(2).

The basis for this motion is set forth fully in the accompanying Memorandum in Support, filed herewith.

WHEREFORE, Suno respectfully requests the Court dismiss the Complaint with prejudice.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Suno respectfully requests to be heard at oral argument on its Motion to Dismiss.

Dated: August 18, 2025

Respectfully submitted,

/s/ Andrew M. Gass

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Counsel for Defendant Suno, Inc.

LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), I hereby certify that that counsel for Suno, Inc. conferred with counsel for Plaintiffs in a good faith effort to resolve or narrow the issues raised in Defendant's Motion to Dismiss, and Plaintiffs oppose this motion.

/s/ Andrew M. Gass
Andrew M. Gass

CERTIFICATE OF SERVICE

I hereby certify that this document, which was filed with the Court through the CM/ECF system, will be sent electronically to all registered participants as identified on the Notice of Electronic Filing, and paper copies will be sent August 18, 2025 to those identified as non-registered participants.

/s/ Andrew M. Gass
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